

HOUSE BILL No. 1283

DIGEST OF INTRODUCED BILL

Citations Affected: IC 10-14-3; IC 16-18-2; IC 16-41-9.5; IC 34-30-2.

Synopsis: Epidemic, pandemic, or bioterrorism disease. Requires the state department of health to publish and distribute: (1) forms disclosing the risks and benefits of vaccines and medications against epidemic, pandemic, or bioterrorism diseases; and (2) forms for vaccination and treatment exemption by an adult or a parent or guardian of a child. Requires a health care provider to provide a copy of the appropriate form to the adult or parent or guardian of a child receiving a vaccination or treatment. Requires the quarantine of an individual who has an epidemic, pandemic, or bioterrorism disease in the residence of the individual or in the least restrictive setting. Prohibits a governmental entity from taking control of a legally possessed firearm or weapon during a disaster unless the firearm or weapon is being or has been used to commit a crime. Provides that a civil or criminal penalty may not be imposed on: (1) an adult or a parent or guardian of a child who does not give consent to receive a vaccination or treatment; and (2) an individual for the accidental transmission of a vaccine virus or an epidemic, pandemic, or bioterrorism disease.

Effective: Upon passage.

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January 10, 2006, read first time and referred to Committee on Public Safety and Homeland Security.

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Introduced

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

HOUSE BILL No. 1283

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 10-14-3-12 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The
3 governor shall declare a disaster emergency by executive order or
4 proclamation if the governor determines that a disaster has occurred or
5 that the occurrence or the threat of a disaster is imminent. The state of
6 disaster emergency continues until the governor:
7 (1) determines that the threat or danger has passed or the disaster
8 has been dealt with to the extent that emergency conditions no
9 longer exist; and
10 (2) terminates the state of disaster emergency by executive order
11 or proclamation.
12 A state of disaster emergency may not continue for longer than thirty
13 (30) days unless the state of disaster emergency is renewed by the
14 governor. The general assembly, by concurrent resolution, may
15 terminate a state of disaster emergency at any time. If the general
16 assembly terminates a state of disaster emergency under this
17 subsection, the governor shall issue an executive order or proclamation

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ending the state of disaster emergency. All executive orders or proclamations issued under this subsection must indicate the nature of the disaster, the area or areas threatened, and the conditions which have brought the disaster about or that make possible termination of the state of disaster emergency. An executive order or proclamation under this subsection shall be disseminated promptly by means calculated to bring the order's or proclamation's contents to the attention of the general public. Unless the circumstances attendant upon the disaster prevent or impede, an executive order or proclamation shall be promptly filed with the secretary of state and with the clerk of the city or town affected or with the clerk of the circuit court.

(b) An executive order or proclamation of a state of disaster emergency:

(1) activates the disaster response and recovery aspects of the state, local, and interjurisdictional disaster emergency plans applicable to the affected political subdivision or area; and

(2) is authority for:

(A) deployment and use of any forces to which the plan or plans apply; and

(B) use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled, or arranged to be made available under this chapter or under any other law relating to disaster emergencies.

(c) During the continuance of any state of disaster emergency, the governor is commander-in-chief of the organized and unorganized militia and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or regulations. This section does not restrict the governor's authority to delegate or assign command authority by orders issued at the time of the disaster emergency.

(d) In addition to the governor's other powers, the governor may do the following while the state of emergency exists:

(1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency if strict compliance with any of these provisions would in any way prevent, hinder, or delay necessary action in coping with the emergency.

(2) Use all available resources of the state government and of each political subdivision of the state reasonably necessary to cope with the disaster emergency.

(3) Transfer the direction, personnel, or functions of state

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departments and agencies or units for performing or facilitating emergency services.

(4) Subject to any applicable requirements for compensation under section 31 of this chapter **and except as provided in IC 16-41-9.5-20**, commandeer or use any private property if the governor finds this action necessary to cope with the disaster emergency.

(5) Assist in the evacuation of all or part of the population from any stricken or threatened area in Indiana if the governor considers this action necessary for the preservation of life or other disaster mitigation, response, or recovery.

(6) Prescribe routes, modes of transportation, and destinations in connection with evacuation.

(7) Control ingress to and egress from a disaster area, the movement of persons within the area, and the occupancy of premises in the area.

(8) **Except as provided in section 12.5 of this chapter**, suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles.

(9) Make provision for the availability and use of temporary emergency housing.

(10) Allow persons who hold a license to practice medicine, dentistry, pharmacy, nursing, engineering, and similar other professions as may be specified by the governor to practice their respective profession in Indiana during the period of the state of emergency if the state in which a person's license was issued has a mutual aid compact for emergency management with Indiana.

(11) Give specific authority to allocate drugs, foodstuffs, and other essential materials and services.

SECTION 2. IC 10-14-3-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12.5. During a disaster, the governor or any governmental entity may not:**

(1) take;

(2) confiscate;

(3) destroy; or

(4) otherwise take control of;

a firearm or other weapon that is legally in the possession of the owner of the firearm or weapon unless the firearm or weapon is being or has been used by the owner to commit a crime.

SECTION 3. IC 16-18-2-36.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

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[EFFECTIVE UPON PASSAGE]: **Sec. 36.3. "Epidemic, pandemic, or bioterrorism disease", for purposes of IC 16-41-9.5, means a life threatening disease, including:**

- (1) the pneumonic plague;**
- (2) smallpox;**
- (3) viral hemorrhagic fevers;**
- (4) influenza; and**
- (5) other similar diseases.**

SECTION 4. IC 16-18-2-163, AS AMENDED BY P.L.95-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 163. (a) "Health care provider", for purposes of IC 16-21 and IC 16-41, means any of the following:

- (1) An individual, a partnership, a corporation, a professional corporation, a facility, or an institution licensed or legally authorized by this state to provide health care or professional services as a licensed physician, a psychiatric hospital, a hospital, a health facility, an emergency ambulance service (IC 16-31-3), a dentist, a registered or licensed practical nurse, a midwife, an optometrist, a pharmacist, a podiatrist, a chiropractor, a physical therapist, a respiratory care practitioner, an occupational therapist, a psychologist, a paramedic, an emergency medical technician, an emergency medical technician-basic advanced, an emergency medical technician-intermediate, or a person who is an officer, employee, or agent of the individual, partnership, corporation, professional corporation, facility, or institution acting in the course and scope of the person's employment.
- (2) A college, university, or junior college that provides health care to a student, a faculty member, or an employee, and the governing board or a person who is an officer, employee, or agent of the college, university, or junior college acting in the course and scope of the person's employment.
- (3) A blood bank, community mental health center, community mental retardation center, community health center, or migrant health center.
- (4) A home health agency (as defined in IC 16-27-1-2).
- (5) A health maintenance organization (as defined in IC 27-13-1-19).
- (6) A health care organization whose members, shareholders, or partners are health care providers under subdivision (1).
- (7) A corporation, partnership, or professional corporation not otherwise qualified under this subsection that:
 - (A) provides health care as one (1) of the corporation's,

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partnership's, or professional corporation's functions;
 (B) is organized or registered under state law; and
 (C) is determined to be eligible for coverage as a health care provider under IC 34-18 for the corporation's, partnership's, or professional corporation's health care function.

Coverage for a health care provider qualified under this subdivision is limited to the health care provider's health care functions and does not extend to other causes of action.

(b) "Health care provider", for purposes of IC 16-35, has the meaning set forth in subsection (a). However, for purposes of IC 16-35, the term also includes a health facility (as defined in section 167 of this chapter).

(c) "Health care provider", for purposes of IC 16-36-5, means an individual licensed or authorized by this state to provide health care or professional services as:

- (1) a licensed physician;
- (2) a registered nurse;
- (3) a licensed practical nurse;
- (4) an advanced practice nurse;
- (5) a licensed nurse midwife;
- (6) a paramedic;
- (7) an emergency medical technician;
- (8) an emergency medical technician-basic advanced;
- (9) an emergency medical technician-intermediate; or
- (10) a first responder, as defined under IC 16-18-2-131.

The term includes an individual who is an employee or agent of a health care provider acting in the course and scope of the individual's employment.

(d) "Health care provider", for purposes of IC 16-40-4, means any of the following:

- (1) An individual, a partnership, a corporation, a professional corporation, a facility, or an institution licensed or authorized by the state to provide health care or professional services as a licensed physician, a psychiatric hospital, a hospital, a health facility, an emergency ambulance service (IC 16-31-3), an ambulatory outpatient surgical center, a dentist, an optometrist, a pharmacist, a podiatrist, a chiropractor, a psychologist, or a person who is an officer, employee, or agent of the individual, partnership, corporation, professional corporation, facility, or institution acting in the course and scope of the person's employment.
- (2) A blood bank, laboratory, community mental health center,

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community mental retardation center, community health center,
or migrant health center.

(3) A home health agency (as defined in IC 16-27-1-2).

(4) A health maintenance organization (as defined in
IC 27-13-1-19).

(5) A health care organization whose members, shareholders, or
partners are health care providers under subdivision (1).

(6) A corporation, partnership, or professional corporation not
otherwise specified in this subsection that:

(A) provides health care as one (1) of the corporation's,
partnership's, or professional corporation's functions;

(B) is organized or registered under state law; and

(C) is determined to be eligible for coverage as a health care
provider under IC 34-18 for the corporation's, partnership's, or
professional corporation's health care function.

(7) A person that is designated to maintain the records of a person
described in subdivisions (1) through (6).

**(e) "Health care provider", for purposes of IC 16-41-9.5, means
an individual licensed by the state to provide health care or
professional services as:**

(1) a licensed physician;

(2) a registered nurse; or

(3) a licensed practical nurse.

**SECTION 5. IC 16-18-2-250.5 IS ADDED TO THE INDIANA
CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE UPON PASSAGE]: Sec. 250.5. (a) "Nonhospital
quarantine", for purposes of IC 16-41-9.5, refers to a location that:**

**(1) is used for quarantine, detention, or isolation of an
individual; and**

(2) is not a hospital licensed under IC 16-21-2.

(b) The term includes the following:

(1) A college dormitory.

(2) A community center.

(3) A church, synagogue, or other place of worship.

(4) A physician's office.

(5) A public library.

(6) A county home.

(7) A school.

(c) The term does not include:

**(1) a location where violent force or military force is used to
confine an individual; or**

(2) the following:

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- 1 (A) A mental hospital.
- 2 (B) A mental ward.
- 3 (C) A military base.
- 4 (D) A warehouse.
- 5 (E) A shopping mall.
- 6 (F) An auditorium.
- 7 (G) An arena.
- 8 (H) A theater.
- 9 (I) A stadium.
- 10 (J) Property controlled by the federal government.

11 SECTION 6. IC 16-18-2-302.5 IS ADDED TO THE INDIANA
 12 CODE AS A NEW SECTION TO READ AS FOLLOWS
 13 [EFFECTIVE UPON PASSAGE]: **Sec. 302.5. "Quarantine", for**
 14 **purposes of IC 16-41-9.5, includes any of the following:**

- 15 (1) Quarantine.
- 16 (2) Provisional quarantine.
- 17 (3) Isolation.
- 18 (4) Detention.

19 SECTION 7. IC 16-18-2-354.5 IS ADDED TO THE INDIANA
 20 CODE AS A NEW SECTION TO READ AS FOLLOWS
 21 [EFFECTIVE UPON PASSAGE]: **Sec. 354.5. "Treatment", for**
 22 **purposes of IC 16-41-9.5, means a medical examination, medical**
 23 **procedure, medication, or psychosocial service administered to:**

- 24 (1) diagnose;
- 25 (2) evaluate;
- 26 (3) alleviate; or
- 27 (4) cure;

28 **an epidemic, pandemic, or bioterrorism disease.**

29 SECTION 8. IC 16-18-2-362.5 IS ADDED TO THE INDIANA
 30 CODE AS A NEW SECTION TO READ AS FOLLOWS
 31 [EFFECTIVE UPON PASSAGE]: **Sec. 362.5. "Vaccination", for**
 32 **purposes of IC 16-41-9.5, means an inoculation with a medical**
 33 **countermeasure against epidemic, pandemic, or bioterrorism**
 34 **diseases.**

35 SECTION 9. IC 16-18-2-362.7 IS ADDED TO THE INDIANA
 36 CODE AS A NEW SECTION TO READ AS FOLLOWS
 37 [EFFECTIVE UPON PASSAGE]: **Sec. 362.7. "Vaccine", for**
 38 **purposes of IC 16-41-9.5, means a medical countermeasure against**
 39 **epidemic, pandemic, or bioterrorism diseases.**

40 SECTION 10. IC 16-41-9.5 IS ADDED TO THE INDIANA CODE
 41 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 42 UPON PASSAGE]:

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Chapter 9.5. Vaccination or Treatment Exemption; Vaccination or Medication Disclosure

Sec. 1. (a) The state department shall prepare and publish, in English and Spanish:

- (1) a disclosure form for each vaccination or medication; and**
- (2) an exemption from vaccination or treatment form for:**
 - (A) adults; and**
 - (B) children.**

(b) Each vaccination or medication disclosure form prepared and published under subsection (a)(1) must include an explanation of the:

- (1) risks, including:**
 - (A) contraindications;**
 - (B) warnings; and**
 - (C) adverse reactions;**
- based on the manufacturer's package insert or labeling; and**
- (2) benefits;**

of the vaccine used in the vaccination or the medication used in the treatment.

(c) The exemption from vaccination or treatment form prepared and published under subsection (a)(2) must include:

- (1) an explanation of an adult's legal right to not receive a vaccination or treatment if the adult has not given voluntary written consent for the administration of a vaccine or treatment before the vaccination or treatment occurs;**
- (2) an explanation of a child's legal right to not receive a vaccination or treatment if the child's parent or guardian has not given voluntary written consent for the administration of a vaccine or treatment before the vaccination or treatment occurs;**
- (3) a signature line;**
- (4) a date line;**
- (5) options to claim an exemption under:**
 - (A) subdivision (1); and**
 - (B) subdivision (2);**
- (6) directions for the parent or guardian of a child to file the exemption from vaccination or treatment form with:**
 - (A) the child's teacher; or**
 - (B) an individual who may order a vaccination or treatment for the child absent an objection; and**
- (7) directions for an adult to keep a copy of the adult's exemption from vaccination or treatment form.**

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1 **Sec. 2.** The state department shall distribute the forms described
 2 in section 1 of this chapter to each health care provider who
 3 provides a vaccination or treatment.

4 **Sec. 3. (a)** Each health care provider who provides a vaccination
 5 or treatment shall:

6 (1) when giving a vaccination, use a needle safety device that
 7 provides maximum protection for the health care provider;
 8 and

9 (2) before giving a vaccination or treatment, provide a copy
 10 of the forms described in section 1 of this chapter to:

11 (A) the adult; or

12 (B) the parent or guardian of the child;

13 who may receive the vaccination or treatment.

14 (b) The health care provider shall read and explain the
 15 vaccination or medication disclosure form and exemption from
 16 vaccination or treatment form if requested to do so by the adult or
 17 a parent or guardian of the child before the adult or child receives
 18 a vaccination or treatment.

19 **Sec. 4.** An adult shall not be required to receive a vaccination or
 20 treatment without the adult's voluntary written consent.

21 **Sec. 5.** A child shall not be required to receive a vaccination or
 22 treatment without the voluntary written consent of the child's
 23 parent or guardian.

24 **Sec. 6. (a)** A civil or criminal penalty shall not be imposed on an
 25 adult for not giving voluntary written consent to receive a
 26 vaccination or treatment.

27 (b) A civil or criminal penalty shall not be imposed on a parent
 28 or guardian of a child for the parent or guardian not giving
 29 voluntary written consent for the child to receive a vaccination or
 30 treatment.

31 **Sec. 7.** An employer shall not discriminate against an employee
 32 in the terms and conditions of employment for the employee not
 33 giving voluntary written consent to receive a vaccination or
 34 treatment.

35 **Sec. 8.** An adult shall not be quarantined for not giving
 36 voluntary written consent to receive a vaccination or treatment.

37 **Sec. 9.** A child shall not be quarantined because the parent or
 38 guardian of the child has not given voluntary written consent for
 39 the child to receive a vaccination or treatment.

40 **Sec. 10.** A physician who knowingly violates this chapter is
 41 subject to disciplinary sanctions under IC 25-1-9 as if the physician
 42 had knowingly violated a rule adopted by the medical licensing

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board under IC 25-22.5-2.

Sec. 11. A nurse who knowingly violates this chapter is subject to disciplinary sanctions under IC 25-1-9 as if the nurse had knowingly violated a rule adopted by the Indiana state board of nursing under IC 25-23-1.

Sec. 12. No individual or group of individuals shall be subjected to remote, electronic, or technological screening, including remote visual inspections and electronic temperature monitoring, to detect the presence of illness.

Sec. 13. (a) If a physician determines that:

(1) an individual has contracted; or

(2) there is an imminent possibility that the individual will contract;

an epidemic, pandemic, or bioterrorism disease, the individual shall be quarantined only in the least restrictive setting necessary for the mental and physical health of the individual.

(b) An individual to whom subsection (a) applies may be quarantined in:

(1) the individual's residence or, if the individual is a child, the residence of the child's parent or guardian;

(2) a hospital licensed under IC 16-21-2; or

(3) a nonhospital quarantine.

(c) A physician who makes a determination under subsection (a) shall, in determining a quarantine location for the individual, give considerable deference to the directives:

(1) of the individual; or

(2) if the individual is a child, of the child's parent or guardian.

Sec. 14. The health status of an individual who is quarantined under this chapter may be monitored by a health care provider as medically appropriate to determine whether the individual should:

(1) continue in quarantine; or

(2) be released from quarantine.

Sec. 15. (a) The option of quarantine in the individual's residence or the residence of a child's parent or guardian shall be made available when an individual is quarantined under this chapter, if possible.

(b) If an individual is quarantined in a place other than the individual's residence or the residence of a child's parent or guardian:

(1) the premises used shall be:

(A) maintained in a hygienic manner;

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(B) safe and free from violence; and

(C) designed to minimize the likelihood of further transmission or infection; and

(2) to the extent possible, cultural and religious beliefs shall be considered in addressing the needs of the quarantined individual in establishing and maintaining the premises.

Sec. 16. The length of a quarantine under this chapter shall not be longer than the period during which the quarantined individual is contagious, plus one (1) day.

Sec. 17. (a) After a quarantine period determined under section 16 of this chapter has expired, a quarantined adult or the parent or guardian of a quarantined child may request:

(1) in the case of quarantine in a residence, release from quarantine; or

(2) in the case of:

(A) quarantine in a hospital; or

(B) nonhospital quarantine;

discharge to return to the residence of the adult or to the residence of the child's parent or guardian.

(b) A quarantined adult or child shall be released upon request under the circumstances set forth in subsection (a).

Sec. 18. (a) If a child is quarantined under this chapter, the parent or guardian of the child may remain with the child in quarantine.

(b) If an individual who is quarantined under this chapter is the parent or guardian of one (1) or more children, the individual may give voluntary written consent to be separated from the children for placement of the children in the residence of a relative, friend, or neighbor. The children shall be placed in accordance with the directives of the parent or guardian, if possible.

Sec. 19. If an adult is quarantined under section 13 of this chapter, another adult family member may remain in quarantine with the quarantined adult.

Sec. 20. An individual is not subject to civil liability or criminal penalty for the accidental transmission of a vaccine virus or a disease due to the individual having been vaccinated or having contracted an epidemic, pandemic, or bioterrorism disease.

Sec. 21. (a) A governmental entity shall notify the owner of a property if the governmental entity wishes to use the property for quarantine purposes for individuals who are not members of the property owner's family.

(b) The governor or any governmental entity shall not use

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1 private property for quarantine purposes if the property owner
 2 does not give voluntary written consent to allow the property to be
 3 used for quarantine purposes.

4 (c) A governmental entity may compensate a property owner for
 5 the use of property for quarantine purposes.

6 Sec. 22. The state department may adopt rules under IC 4-22-2
 7 to implement this chapter.

8 SECTION 11. IC 34-30-2-81.1 IS ADDED TO THE INDIANA
 9 CODE AS A NEW SECTION TO READ AS FOLLOWS
 10 [EFFECTIVE UPON PASSAGE]: Sec. 81.1. IC 16-41-9.5-6
 11 (Concerning an adult, a parent, or a guardian not giving voluntary
 12 written consent for vaccination or treatment).

13 SECTION 12. IC 34-30-2-81.2 IS ADDED TO THE INDIANA
 14 CODE AS A NEW SECTION TO READ AS FOLLOWS
 15 [EFFECTIVE UPON PASSAGE]: Sec. 81.2. IC 16-41-9.5-20
 16 (Concerning an individual's accidental transmission of a vaccine
 17 virus or disease).

18 SECTION 13. An emergency is declared for this act.

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